

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 3:</b> Intake	<b>Effective Date:</b> February 1, 2008
	<b>Section 8:</b> Statutory Definition of Child Abuse/Neglect	<b>Version:</b> 2

## POLICY

The Indiana Department of Child Services (DCS) will use the following criteria when evaluating intake reports to determine if the allegations meet the statutory definition for child abuse/neglect (CA/N):

1. The alleged victim is under the age of 18
2. The alleged perpetrator's relationship to the alleged victim is that of parent, guardian or custodian (see "Relationship" below)

**Exception:** For allegations involving sexual offenses, the perpetrator can have **any** or **no** relationship to the child.

3. The allegations would cause a reasonable person to believe that CA/N has occurred (see "Allegations" below)

### Relationship

Parent: The child's biological or adoptive mother or father.

Guardian: A person appointed by a court to have the care and custody of a child and/or the child's estate.

**(REVISED)** Custodian: Any person with whom a child resides **or** any of the following:

1. a license applicant or licensee of:
  - a. a foster home or residential child care facility that is required to be licensed or is licensed
  - b. a child care center that is required to be licensed or is licensed
  - c. a child care home that is required to be licensed or is licensed; or
2. a person who is responsible for care, supervision, or welfare of children while providing services as an owner, director, manager, supervisor, employee, or volunteer at:
  - a. a home, center, or facility described in (1) above
  - b. a child care ministry that is exempt from licensing requirements and is registered or required to be registered
  - c. a home, center, or facility that serves migrant children
  - d. a school; or
3. a child caregiver; or
4. an individual who has direct contact, on a regular and continuing basis, with a child for whom care and supervision is provided at a house, center, or facility described above.

See Related Information for a definition of child caregiver.

### Allegations

Indiana Law includes the following CHINS definitions as the basis for child abuse/neglect (CA/N). Note: *There are additional CHINS statutes in Indiana Code that are not included in the definition of CA/N.*

This list is intended to be used by an intake worker/supervisor as a parameter to determine whether a reporter's allegations would seem to indicate that CA/N has occurred:

- CHINS 1: The child's physical or mental condition is seriously impaired or seriously endangered as a result of the parent/guardian/custodian being unable, refusing, or neglecting to supply the child with necessary food, clothing, shelter, medical care, education, or supervision.
- CHINS 2: The child's physical or mental condition is seriously impaired or seriously endangered due to an injury as a result of the parent/guardian/custodian's act or omission, or there is evidence that illegal manufacture of a drug or controlled substance is occurring on property where a child resides.
- CHINS 3: The child is a victim of certain sex offenses or is living in a household with a victim of certain sex offenses.
- CHINS 4: The child's parent/guardian/custodian allows the child to participate in an obscene performance.
- CHINS 5: The child's parent/guardian/custodian allows the child to commit a prohibited sex offense (see tool [Sexual Offenses CA/N Matrix](#)).

### Code References

1. [IC 31-9-2-14 Child abuse or neglect](#)
2. [IC 31-9-2-31 Custodian](#)
3. [IC 31-34-1 \(Sections 1-15\) Circumstances under which a child is a Child in Need of Services](#)
4. [IC 35-42-4 \(Sections 1-4, 7, 9\) Rape; criminal deviant conduct; child molesting; child exploitation and pornography; child seduction; sexual misconduct with a minor](#)
5. [IC 35-45-4 \(Sections 1 and 2\) Public indecency and prostitution](#)
6. [IC 35-46-1-3 Incest](#)

## **PROCEDURE**

See separate policy, [3.4 - Initial Evaluation of CA/N Intake Reports](#) for procedure.

## **PRACTICE GUIDANCE**

### **Statutory Definition of CA/N**

The ultimate determination about whether or not allegations meet the statutory definition of child abuse/neglect requires a careful, balanced assessment of both objective and subjective data with the paramount consideration being the child alleged to be a victim. The child has the right to due process of an assessment (investigation) if the allegations meet the statutory definition. When in doubt, assign for assessment (investigation).

### **Emotional Abuse**

**Emotional abuse** can be a repeated pattern of caregiver behavior or an extreme incident that conveys to a child that he/she is worthless, flawed, unloved, unwanted, endangered or only of value in meeting another's needs. (American Professional Society on the Abuse of Children, 1995). The emotionally abusive act(s) can be grouped into the categories of spurning, terrorizing, exploiting/corrupting, isolating and denying emotional responsiveness.

DCS defines an **emotionally abused child** as one whose health or welfare is harmed or threatened with harm, when his/her parent/guardian/custodian inflicts or allows to be inflicted an emotional injury or creates or allows to be created a risk of emotional injury upon the child.

DCS defines an **emotional injury** as an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to his/her age, development, culture and environment as testified to by a qualified mental health professional.

### **FORMS AND TOOLS**

1. [Tool: Sexual Offenses CA/N Matrix](#)

### **RELATED INFORMATION**

#### **Child Caregiver**

IC 31-9-2-16.4 defines a child caregiver as a person who provides, or is responsible for providing, care and supervision of a child (other than a child of whom the person is a parent, stepparent, grandparent, aunt, uncle, sibling, legal guardian or custodian with whom the person resides) at a residential property that is not the child's place of residence, if the person:

1. is not required to be licensed as the operator of:
  - a. a child care home under IC 12-17.2-5; or
  - b. a foster family home under IC 31-27-4; and
2. provides care and supervision of a child while unattended by the child's:
  - a. parent;
  - b. guardian; or
  - c. or custodian with whom the child resides; and
3. receives more than two thousand dollars (\$2,000) in annual compensation for providing care and supervision of a child or children.

**All** of these requirements must be met in order for DCS to assess (investigate) a child caregiver.

**Child Care Home**

DCS assesses (investigates) all child care homes whether or not licensed, unlicensed, or operating illegally without a license. See separate policy, [4.30 Institutional Assessments \(Investigations\)](#).

A child care home is defined as a residential structure in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, or custodian, or other relative or any child who is at least (14) years of age and does not require child care) at any time receive child care from a provider:

1. while unattended by a parent, legal guardian, or custodian;
2. for regular compensation; and
3. for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.